

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2687
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

Case No. 1D 2002 63052

SUSAN NORMANDY BLUMENTHAL
511 Bonhill Road
Los Angeles, CA 90049

**FIRST AMENDED
A C C U S A T I O N**

Physical Therapist License No. PT 9054

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this First Amended Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about March 15, 1979, the Physical Therapy Board of California issued Physical Therapist License Number PT 9054 to Susan Normandy Blumenthal (respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Physical Therapy

Board of California (Board), under the authority of the following sections of the Business and Professions Code (Code).

4. Section 2660 of the Code states, in pertinent part:

“The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

* * *

“(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

5. Section 2630 of the Code states, in pertinent part:

“A physical therapist . . . may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. . . . The aide shall at all times be under the orders, directions, and immediate supervision of the physical therapist. . . . The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks, and shall be readily available at all times to provide advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide, the supervising physical therapist shall, at some point during the treatment day, provide direct service to the patient as treatment for the patient’s condition, or to further evaluate and monitor the patient’s progress, and shall correspondingly document the patient’s record.”

6. Section 2620.7 of the Code states:

“A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record. Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the

1 records of unemancipated minors shall be maintained at least one year after the minor has
2 reached the age of 18 years, and not in any case less than seven years.”

3 7. California Code of Regulations, title 16, section 1399, states in pertinent
4 part:

5 “A physical therapy aide is an unlicensed person who assists a physical therapist
6 and may be utilized by a physical therapist in his or her practice by performing nonpatient
7 related tasks, or by performing patient related tasks.

8 “(a) As used in these regulations:

9 “(1) A ‘patient related task’ means a physical therapy service rendered directly to
10 the patient by an aide, excluding nonpatient related tasks as defined below.

11 “(2) A ‘nonpatient related task’ means a task related to observation of the patient,
12 transport of patients, physical support only during gait or transfer training, housekeeping
13 duties, clerical duties and similar functions.

14 “(b) ‘Under the orders, direction and immediate supervision’ means:

15 “(1) Prior to the initiation of care, the physical therapist shall evaluate every
16 patient prior to the performance of any patient related tasks by the aide. The evaluation
17 shall be documented in the patient's record.

18 “(2) The physical therapist shall formulate and record in the patient's record a
19 treatment program based upon the evaluation and any other information available to the
20 physical therapist, and shall determine those patient related tasks which may be assigned
21 to an aide. The patient's record shall reflect those patient related tasks that were rendered
22 by the aide, including the signature of the aide who performed those tasks.

23 “(3) The physical therapist shall assign only those patient related tasks that can be
24 safely and effectively performed by the aide. The supervising physical therapist shall be
25 responsible at all times for the conduct of the aide while he or she is on duty.

26 “(4) The physical therapist shall provide continuous and immediate supervision of
27 the aide. The physical therapist shall be in the same facility as and in immediate
28 proximity to the location where the aide is performing patient related tasks, and shall be

1 readily available at all times to provide advice or instruction to the aide. When patient
2 related tasks are provided a patient by an aide the supervising physical therapist shall at
3 some point during the treatment day provide direct service to the patient as treatment for
4 the patient's condition or to further evaluate and monitor the patient's progress, and so
5 document in the patient's record.

6 * * *

7 “(6) The supervising physical therapist shall countersign with their first initial and
8 last name, and date all entries in the patient's record, on the same day as patient related
9 tasks were provided by the aide.”

10 9. Section 2661.5 of the Code states:

11 “(a) In any order issued in resolution of a disciplinary proceeding before
12 the board, the board may request the administrative law judge to direct any
13 licensee found guilty of unprofessional conduct to pay to the board a sum not to
14 exceed the actual and reasonable costs of the investigation and prosecution of the
15 case.

16 “(b) The costs to be assessed shall be fixed by the administrative law
17 judge and shall not in any event be increased by the board. When the board does
18 not adopt a proposed decision and remands the case to an administrative law
19 judge, the administrative law judge shall not increase the amount of the assessed
20 costs specified in the proposed decision.

21 “(c) When the payment directed in an order for payment of costs is not
22 made by the licensee, the board may enforce the order of payment by bringing an
23 action in any appropriate court. This right of enforcement shall be in addition to
24 any other rights the board may have as to any licensee directed to pay costs.

25 “(d) In any judicial action for the recovery of costs, proof of the board's
26 decision shall be conclusive proof of the validity of the order of payment and the
27 terms for payment.

28 “(e) (1) Except as provided in paragraph (2), the board shall not renew

1 or reinstate the license or approval of any person who has failed to pay all
2 of the costs ordered under this section.

3 (2) Notwithstanding paragraph (1), the board may, in its
4 discretion, conditionally renew or reinstate for a maximum of one year the
5 license or approval of any person who demonstrates financial hardship and
6 who enters into a formal agreement with the board to reimburse the board
7 within that one year period for those unpaid costs.

8 “(f) All costs recovered under this section shall be deposited in the
9 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
10 costs are actually recovered or the previous fiscal year, as the board may direct.”

11 **CAUSE FOR DISCIPLINE**

12 (Supervision of Documentation by Physical Therapy Aides)

13 10. Respondent is subject to disciplinary action under Code sections 2660,
14 subdivision (i) and 2630, in conjunction with California Code of Regulations Title 16, section
15 1399, in that she failed to properly document patient charts where physical therapy was provided
16 by physical therapy aides and she failed to ensure that physical therapy aides under her
17 supervision properly documented physical therapy services. The circumstances are as follows:

18 A. With respect to patient J.C.¹, the patient was treated by a physical therapy
19 aide under respondent’s supervision on February 26, 2001.

20 B. With respect to patient N.S., the patient was treated by a physical therapy
21 aide under respondent’s supervision on January 20, 2001.

22 C. With respect to patient B.K., the patient was treated by physical therapy aides
23 under respondent’s supervision on various occasions between September and December
24 1997.

25 D. With respect to the patients referred to above, respondent failed to
26

27
28 1. All patients are referred to herein by their initials to protect their privacy. The full
names of all patients will be disclosed to respondent upon a timely request for discovery.

1 properly document patient charts where physical therapy was provided by physical
2 therapy aides and she failed to ensure that physical therapy aides under her supervision
3 properly documented physical therapy services.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Physical Therapy Board of California issue a
7 decision:

8 1. Revoking or suspending Physical Therapist License Number PT 9054,
9 issued to Susan Normandy Blumenthal;

10 2. Ordering Susan Normandy Blumenthal to pay the Physical Therapy Board
11 of California the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 2661.5;

13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: January 24, 2006

15
16
17 Original Signed By:
18 STEVEN K. HARTZELL
19 Executive Officer
20 Physical Therapy Board of California
21 Department of Consumer Affairs
22 State of California
23 Complainant
24
25
26
27
28